

**In the United States District Court
For the Southern District of Georgia
Brunswick Division**

VERNARD JERICHO PEARSEY,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent.

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CIVIL ACTION NO.: 2:18-cv-151

(Case No.: 2:16-cr-5)

ORDER

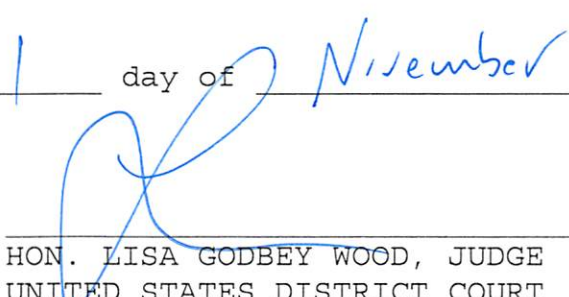
After an independent and de novo review of the entire record, the Court concurs with the Magistrate Judge's Report and Recommendation. Dkt. No. 18. Movant Vernard Pearsey ("Pearsey") filed Objections to this Report and Recommendation, as well as a Motion for Extension of Time to File Objections. Dkt. Nos. 19, 20. The Court **GRANTS** Pearsey's Motion and deems his Objections timely filed.

In his Objections, Pearsey contends the Magistrate Judge improperly analyzed his claim that his Georgia burglary conviction cannot serve as a predicate offense for purposes of the Armed Career Criminal Act ("ACCA"). Dkt. 19 at 4. The Magistrate Judge determined Pearsey's claims relating to an ACCA enhancement for his Georgia burglary conviction was not allowable in a 28 U.S.C. § 2255 Motion because Pearsey raised

this issue on appeal, and the Eleventh Circuit Court of Appeals had already rejected his arguments. Dkt. No. 18 at 5-6. In addition, the Magistrate Judge determined Pearsey could not assert a successful ineffective assistance of counsel claim against his trial attorney, as Pearsey's counsel raised this issue—in light of both Mathis v. United States, 136 S. Ct. 2243 (2016), and United States v. Gundy, 842 F.3d 1156 (11th Cir. 2016)—but was unsuccessful. Id. at 10-14. Pearsey has not shown any flaw in this analysis or demonstrated the Court should reach a different conclusion.

Pearsey's Objections are without merit, and the Court **OVERRULES** his Objections. Accordingly, the Court **ADOPTS** the Magistrate Judge's Report and Recommendation as the opinion of the Court, **GRANTS** Respondent's Motion to Dismiss, and **DENIES** in part and **DISMISSES** in part Pearsey's 28 U.S.C. § 2255 Motion to Vacate, Set Aside, or Correct his Sentence. The Court also **DIRECTS** the Clerk of Court to **CLOSE** this case and enter the appropriate judgment of dismissal and **DENIES** Pearsey a Certificate of Appealability and *in forma pauperis* status on appeal.

SO ORDERED, this 1 day of November, 2021.


 HON. LISA GODBEY WOOD, JUDGE
 UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF GEORGIA